

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

HARRY ARMSTRONG

Plaintiff,

Civil Action No. C-1-01-817

vs.

Spiegel, J.
Sherman, M.J.

CINCINNATI BELL TELEPHONE,

Defendant.

**ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION TO STRIKE
PLAINTIFF'S EXPERT (Doc. 36)**

This is an employment discrimination case brought under 42 U.S.C. § 2000e-(f)(1). On August 21, 2003, Cincinnati Bell Telephone ("defendant") filed a motion to strike plaintiff's expert witness. (*See* Doc. 36). Defendant's argue plaintiff's expert, Dr. Douglas Reed, should be stricken as a result of plaintiff's failure to provide an expert report as required under Rule 26(a) and failure to file a Notice of Compliance as required by the Court's March 24, 2003, Calendar Order (Doc. 35). *See id.* Plaintiff has neither provided his expert report nor filed his Notice of Compliance. Additionally, plaintiff has not responded to defendant's motion to strike.

Rule 37(c)(1) provides that "[a] party that without substantial justification fails to disclose information required by Rule 26(a), . . . is not, unless such failure is harmless, permitted to use as evidence at a trial, a hearing, or on a motion any witness or information not so disclosed." Fed.R.Civ.P. 37(c)(1). Accordingly, as a result of plaintiff's failure to provide an expert report, file a Notice of Compliance, and failure to file a memorandum in opposition to defendant's motion, defendant's motion to strike plaintiff's expert is **GRANTED**.

IT IS SO ORDERED.

DATE: 09/03/2003

s/ Jack Sherman, Jr.
Jack Sherman, Jr.
United States Magistrate Judge